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190 Park Ave
New York N.Y.
10017*

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RAYMOND INTERNATIONAL BUILDERS, INC.,
Mortgagor

and

BANK OF AMERICA NATIONAL TRUST
AND SAVINGS ASSOCIATION, as Agent,
Mortgagee

MORTGAGE
(INDIANA)

SIMPSON THACHER & BARTLETT,
A Partnership Which Includes
Professional Corporations, Attorneys for
BANK OF AMERICA NATIONAL TRUST AND
SAVINGS ASSOCIATION, as Agent
270 Park Avenue, New York, New York 10017
(212) 916-7265
Attn.: T.L. Adler, Esq.

RECORDED
REORDER

JUN 6 11 13 AM '85

STATE OF INDIANA/S.S. NO
LAKE COUNTY
RECORD

Dated: May 31, 1985
Premises: _____
Section _____
Block _____
Lot _____
County of _____
City of _____

2950

MORTGAGE (INDIANA)

THIS INDENTURE made the 31 day of May, 1985, between RAYMOND INTERNATIONAL BUILDERS, INC., a New Jersey corporation, having its principal office at 2801 Post Oak Boulevard, P.O. Box 27456, Houston, Texas 77056, as Mortgagor, and BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, a national banking association, having an office at 800 South Barranca Avenue, Covina, California 91723, as Agent for itself and for the several other lenders parties to the Credit Agreement described herein (hereinafter called the "Banks"), as Mortgagee.

W I T N E S S E T H :

THAT Mortgagor for and in consideration of the Obligations hereinafter described and other valuable consideration, receipt of which is hereby acknowledged, does hereby grant, bargain, sell, alien, remise, release, convey, mortgage, warrant, grant a security interest in and confirm unto Mortgagee, its successors and assigns, the land described on Exhibit A attached hereto and made a part hereof, and all of Mortgagor's right, title and interest in and to said land;

TOGETHER with all and singular the buildings, structures and improvements now or hereafter erected, constructed or located thereon, and all rights, licenses, uses, servitudes, liberties, privileges, franchises, easements, tenements, hereditaments, and appurtenances thereunto appertaining, and the reversion and reversions and remainder and remainders, rents, issues, revenues, proceeds and profits thereof, and all of Mortgagor's right, title and interest in and to (i) all ways, streets, avenues, roads, alleys, passages, places, sidewalks, strips and gores of land and ways, existing or proposed, public or private, and the land lying thereunder, now or hereafter used in connection with the land described in Exhibit A attached hereto, and all reversionary rights with respect to the vacation of said streets, avenues, roads, alleys, passages, places, sidewalks and ways and the land lying thereunder,

sixth, to the payment in full of any and all remaining Obligations or other indebtedness;

Mortgagor remaining liable for any deficiency remaining unpaid after such application, and only after so paying over such net proceeds and after the application of any remaining net proceeds as provided in the mortgage given by Mortgagor to Mortgagee on the Premises and Building Equipment in connection with the Existing Credit Agreement (as defined in the Credit Agreement) and after the payment by Mortgagee of any other amount required by any provision of law, need Mortgagee account for the surplus, if any, to Mortgagor. If prior to the receipt by Mortgagee of such award or payment the Premises shall have been sold on foreclosure of this Mortgage, as between Mortgagor and Mortgagee, Mortgagee shall have the right to receive said award or payment, and Mortgagor shall pay over to Mortgagee said award or payment as, if and when Mortgagor receives same, to the extent of any deficiency found to be due upon such sale, with legal interest thereon, whether or not a deficiency judgment on this Mortgage shall have been sought or recovered or denied, and of the reasonable counsel fees, costs and disbursements incurred by Mortgagee in connection with the collection of such award or payment.

7. If the Obligations or any portion thereof be not fully paid when due, whether at maturity, by acceleration or otherwise, then this Mortgage shall be subject to foreclosure and such other action as may be available at law or in equity for the enforcement hereof and realization upon the Premises and the Building Equipment. In any suit to foreclose the lien hereof, there shall be allowed and included as additional Obligations in the decree of sale, all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurance with respect to title, as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree, the true conditions of the title to or the value of the Premises. Mortgagee shall have the right to purchase at any sale of the Premises or the Building Equipment, being the highest bidder, and in lieu of paying cash therefor may make settlement for the

purchase price by crediting the sales price upon the Obligations and other sums secured hereby. In the event of a foreclosure sale, Mortgagor and all Persons holding under Mortgagor shall be tenants at will of the purchaser from and after execution and delivery of a deed to such purchaser, said tenancy to be terminated at the option of said purchaser upon five days' written notice.

8. a. The rights, options, powers, and remedies provided for the benefit of Mortgagee herein or in the Guarantee or in the Credit Agreement or in any other instrument evidencing or securing the Obligations shall be cumulative and no one or more of them shall be exclusive of the other or others, or of any right or remedy now or hereafter given or allowed by law. If the Premises be comprised of more than one parcel of land, Mortgagee shall be entitled to foreclose this Mortgage against the Premises in one or more parcels or in its entirety, notwithstanding that the default is attributable to a condition existing with respect to only one of the parcels comprising the Premises.

b. This Mortgage is given as security for the payment of the Obligations and the performance and observance by the Mortgagor of its obligations under the Guarantee in conjunction with a number of other mortgages, deeds of trust, assignments and other security agreements also given as security for said payment and performance. Mortgagee shall have the right, but not the obligation, to exercise any, some or all of the rights and remedies available to Mortgagee under any, some or all of said other deeds of trust, mortgages, assignments and security documents, or with respect to any other security now, heretofore or hereafter given to secure the sums due under the Credit Agreement and the Collateral Documents, the Obligations whether given by Mortgagor or otherwise, in such order as Mortgagee may wish before or after Mortgagee exercises any, some or all of its rights and remedies hereunder or under the Guarantee or the Credit Agreement or any documents relating thereto without affecting any of Mortgagee's rights or remedies hereunder or thereunder. Mortgagor hereby waives any right or claim of right which it may have, now or hereafter, to cause marshalling of its assets or of any other party giving any of the aforesaid instruments, documents or other security.

9. The terms, provisions and conditions of the Guarantee and the terms, provisions and conditions of the Credit Agreement with respect to this Mortgage and the Premises and Building Equipment and every part thereof including, but not limited to, restrictions contained in the

Credit Agreement regarding the placement of any liens thereon are by this reference made a part hereof and assumed or affirmed by Mortgagor as obligations of Mortgagor or default by Mortgagor in the compliance of which shall be a default hereunder.

10. This Mortgage shall, pursuant to the Uniform Commercial Code, constitute a security agreement with respect to the Building Equipment and Mortgagor hereby grants to Mortgagee a security interest therein. Mortgagor hereby authorizes Mortgagee to execute and file financing statements and continuation statements without the signature of Mortgagor if Mortgagee shall determine that such are necessary or advisable in order to perfect its security interest in the Building Equipment and shall promptly execute financing and continuation statements in form satisfactory to Mortgagee, upon request, to further evidence and secure Mortgagee's interest in the Building Equipment and shall pay to Mortgagee on demand any expenses incurred by Mortgagee in connection with the preparation, execution and filing of such statements and any continuation statements that may be filed by Mortgagee. In the event of the occurrence of a default hereunder or under the Guarantee, Mortgagee may, at its option, sell or otherwise dispose of the Building Equipment by public or private proceedings, separate from or together with the sale of the real property, in accordance with the provisions of the Uniform Commercial Code, and Mortgagee may with respect to such Building Equipment exercise any other rights or remedies of a secured party under the Uniform Commercial Code. If notice of intended disposition of any of said Building Equipment is required by law, ten days' notice shall constitute reasonable notification. The proceeds of any such sale or other disposition of the Building Equipment shall be applied in the order set forth in paragraph 6 above.

11. Mortgagor shall not at any time insist upon, plead, claim or take any advantage or benefit of, in any manner whatsoever, any stay or extension or moratorium law or any exemption from execution or sale of any property, or any part thereof, given under this Mortgage, wherever enacted, now or at any time hereafter in force, which may affect the observance, performance or enforceability of any of the terms, representations, warranties, covenants and agreements of the Guarantee, this Mortgage, the Credit

Agreement or any other instrument evidencing or securing the sums due under the Credit Agreement or the Obligations, nor shall Mortgagor insist upon, plead, claim or take, in any manner whatsoever, any advantage or benefit of any law now or hereafter in force, wherever enacted, providing for the valuation, appraisal or marshalling of any of the property, or any portion thereof, given under this Mortgage or any other instrument securing the sums due under the Guarantee or the Obligations prior to any sale or sales thereof which may be made pursuant to this Mortgage or pursuant to any decree, order or judgment of any court of competent jurisdiction, nor, after any such sale or sales, shall Mortgagor claim or exercise any right of redemption with respect to said property, or any portion thereof, so sold. Mortgagor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of each and every Person acquiring any interest in or title to the property covered hereby, or any portion thereof, subsequent to the date hereof, it being the intent hereof that any and all such rights of redemption of Mortgagor and of all other Persons, are and shall be deemed to be hereby waived to the full extent permitted by law. Mortgagor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Mortgagee, but will suffer and permit the exercise of every such right, power and remedy as though no such law or laws have been made or enacted.

12. This Mortgage may not be amended or altered in any manner other than by a writing signed by the party sought to be charged or bound thereby.

13. All notices, requests and demands hereunder to or upon the respective parties hereto to be effective shall be made in the manner set forth in the Guarantee, except as otherwise required by applicable law.

14. Mortgagee shall have the right, but not the obligation, to exercise any, some or all of the rights and remedies available to Mortgagee under any, some or all of any other instrument(s) or document(s) now, heretofore or hereafter executed in connection with the Credit Agreement, with any other sums due under the Guarantee or with respect to any other security now, heretofore or hereafter given to secure the Obligations whether given by Mortgagor or otherwise, in such order as Mortgagee may wish before or after Mortgagee exercises any, some or all of its rights and remedies hereunder or under the Guarantee without affecting any of Mortgagee's rights or remedies hereunder, under the

Guarantee or thereunder. Mortgagor hereby waives any right or claim of right which it may have, now or hereafter, to cause marshalling of its assets or of any other party giving any of the aforesaid instruments, documents or other security.

15. If any of the conditions, provisions, terms or covenants contained herein or in the Credit Agreement or in the Guarantee shall be deemed, decreed, adjudged or determined to be invalid or unlawful by a court of competent jurisdiction, such condition, provision, term or covenant shall be severable and the remainder of the conditions, provisions, terms and covenants contained herein or in the Credit Agreement or in the Guarantee, as the case may be, shall continue to be in full force and effect.

16. Except as otherwise prohibited hereunder, all the covenants, conditions, and agreements hereof shall run with the land and bind the respective successors and assigns, and shall inure to the benefit of and be available to the successors and assigns, of Mortgagor and Mortgagee.

17. Notwithstanding anything to the contrary contained herein, wherever this Mortgage provides that interest shall be paid on amounts or expenses advanced, paid or incurred by the Mortgagee pursuant to the provisions hereof, such interest shall be payable at the rate provided for in the Credit Agreement for overdue installments of principal as set forth in Section 2.8(c) thereof.

18. Mortgagor shall not commit waste on the Premises.

19. Capitalized terms used herein shall have the same meanings as set forth in the Credit Agreement, unless otherwise defined herein.

20. This Mortgage shall be governed by, and construed in accordance with, the laws of the State of Indiana.

IN WITNESS WHEREOF, this Mortgage has been duly executed by Mortgagor as of the day and year first above written.

RAYMOND INTERNATIONAL BUILDERS, INC.

By: W.T. Sewell

Title

SR. VICE PRESIDENT

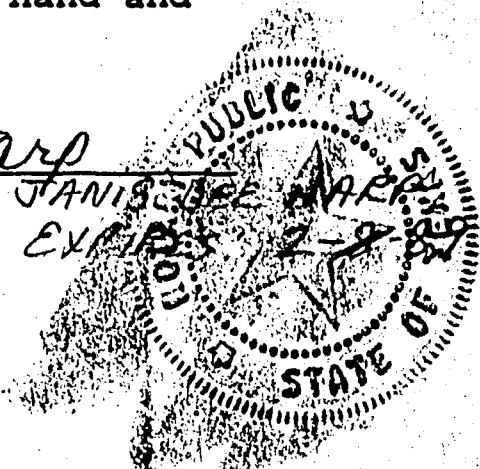
W.T. SEWELL

STATE OF TEXAS)
) ss. :
COUNTY OF HARRIS)

On this the 31st day of May, 1985, before me, Janis Dee Harp, the undersigned officer, personally appeared W. T. Sawell, who acknowledged himself to be the Semir Vu President of Ragmond International Building, Inc. a New Jersey corporation, and that he, as such Semir Vu President being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Semir Vu President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Janis Dee Harp
NOTARY PUBLIC, JANIS DEE HARP
MY COMMISSION EXPIRES 2-9-89



This instrument was prepared by
Tamara L. Adler, Esq.,
Simpson Thacher & Bartlett
a partnership which includes professional corporations
270 Park Avenue
New York, New York 10017

Record & Return to:
Simpson Thacher & Bartlett
a partnership which includes professional corporations
270 Park Avenue
New York, New York 10017
Attn.: T.L. Adler, Esq.

ACKNOWLEDGEMENT BY CORPORATION

It is hereby certified that the address of Bank of America National Trust and Savings Association, the Mortgagee within named, is 800 South Barranca Avenue, Covina, California 91723.

BANK OF AMERICA NATIONAL TRUST
AND SAVINGS ASSOCIATION


By: 
Title: VICE PRESIDENT

EXHIBIT A

All that tract or parcel of land and Premises and the improvements located thereon, more particularly described as follows:

Part of Government Lot Three (3) of fractional Section 24, Township 37 North, Range 10 West of the 2nd P.M., described as follows:

Commencing at the point of intersection of the East line of the 66 foot right of way of the Indiana Harbor Belt Railroad Co. with the South line of said Government Lot 3, said point being 89.73 feet East of the Southwest corner thereof, thence East on the South line of said Lot 3, a distance of 670.1 feet, thence North on a line parallel with and 759.83 feet East of the West line of said Lot 3, a distance of 627 feet, (said parallel line being the East line of the West 23 acres of the North Half of the Southwest Quarter of said Section 24 produced North); thence Southwesterly on a curve convex to the Northwest with a radius of 716.78 feet a distance of 611.3 feet to a point of tangency in the Southeasterly line of the 66 foot right of way of the Indiana Harbor Belt Railroad Co. aforesaid and thence Southwesterly on said Southeasterly right of way line on curve convex to the Northwest, with a radius of 922.37 feet, a distance of 372 feet to the place of beginning, in the City of Hammond, Lake County, Indiana.

and (ii) all waters, water courses and riparian rights now or hereafter pertaining to or used in connection with said land described in Exhibit A attached hereto; all of the aforesaid property, whether real or personal, being hereinafter designated as "the Premises";

TOGETHER with any and all judgments, awards or payments, including interest thereon and the right to receive the same, heretofore or hereafter made as a result of (a) the exercise of the right of eminent domain with respect to the Premises, or any portion thereof, (b) any conveyance made in lieu of the exercise of eminent domain rights with respect to the Premises, or any portion thereof, (c) the alteration of the grade of any street, or (d) any other injury to, taking of, or decrease in the value of the Premises, or any part or parcel thereof, whether direct or consequential, permanent or temporary, to the extent of all amounts which may be secured by this Mortgage at the date of receipt of any such award or payment by Mortgagee and of the reasonable attorney's fees, costs and disbursements incurred by Mortgagee in connection with the collection of such award or payment;

TOGETHER with all machinery, appliances, apparatus, equipment, fittings, fixtures, materials, articles of personal property and goods of every kind and nature whatsoever, and all additions thereto and renewals and replacements thereof, and all substitutions therefor, now or hereafter affixed to, attached to, placed upon or located upon the Premises, or any part thereof, and used or usable or intended to be used in connection with the use, ownership, management, maintenance, enjoyment or operation of said Premises, or any part thereof, in any present or future occupancy thereof and now owned or hereafter acquired by the Mortgagor (hereinafter collectively called the "Building Equipment") including, but without limiting the generality of the foregoing, all heating, lighting, laundry, cooking, incinerating, loading, unloading and power equipment, boilers, dynamos, stokers, engines, pipes, pumps, tanks, motors, conduits, switchboards, plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating, and communications apparatus, air cooling and air conditioning apparatus, building materials and equipment, elevators, escalators, carpeting, shades, draperies, awnings, screens, doors and windows, blinds, stoves, ranges, refrigerators, dishwashers, cabinets, office equipment, furniture and furnishings, partitions, ducts and compressors [where applicable (but not including all personal property set aside during the course

of construction pursuant to construction and/or fabrication contracts between Mortgagor and third parties)], and all right, title and interest of Mortgagor in and to Building Equipment which may be subject to any security agreements (as defined in the Uniform Commercial Code of the State in which such Building Equipment is located and hereinafter called the "Security Agreements") superior in priority to the priority of this Mortgage; and Mortgagor agrees to execute and deliver, from time to time, such further instruments (including further Security Agreements) as may be requested by Mortgagee to confirm the lien of this Mortgage on any Building Equipment;

TO HAVE AND TO HOLD the same, and all the estate, right, title, interest, homestead, separate estate, property, possession, claim and demand whatsoever in law and in equity of Mortgagor in and to the same unto Mortgagee forever.

Mortgagor does hereby covenant with Mortgagee that it is indefeasibly seized of the Premises and the Building Equipment in fee simple and has full power and lawful right to mortgage the same as aforesaid and that it shall be lawful for Mortgagee at all times hereafter, subject to the terms and provisions hereof, peaceably and quietly to enter upon, hold, occupy and enjoy said Premises and every part thereof; that it will make such other and further assurances to perfect the interest of Mortgagee in the Premises and Building Equipment as may hereafter reasonably be required; and does hereby fully warrant the title to the Premises and Building Equipment and every part thereof and will defend the same against the claims of all Persons whomsoever.

PROVIDED ALWAYS, and these Premises are upon the express condition that, this Mortgage is made to secure the following:

a. the prompt payment of the obligations guaranteed by Mortgagor under a certain Guarantee, dated May __, 1985, by the Subsidiary Guarantors in favor of Mortgagee and the Banks (said Guarantee as now existing and as it may be amended or supplemented from time to time hereinafter called the "Guarantee"), given in connection with a certain Credit Agreement, dated as of May 20, 1985 (as the same may be amended or supplemented from time to time, the "Credit Agreement"), among Mortgagee, the Banks parties thereto, Raymond Holdings Inc. (hereinafter called "Holdings") and Raymond International Inc. (hereinafter called the "Company"), (such guaranteed obligations hereinafter called the "Obligations"); and

b. the prompt payment of all other sums secured by this Mortgage as provided herein including, without limitation, indebtedness, now existing and hereafter arising, under or pursuant to the Credit Agreement, including future advances made pursuant to the Credit Agreement, whether such advances are obligatory or are to be made at the option of the Banks.

Mortgagor further covenants and agrees as follows:

1. Mortgagor shall pay the Obligations and all other sums secured by this Mortgage when due, in accordance with the terms of the Guarantee and this Mortgage. Mortgagor shall perform any and all other of its obligations set forth herein and in the Guarantee.

2. Mortgagor shall pay and discharge as and when the same become due and payable all taxes, sewer rents, water charges, assessments and other governmental charges that may accrue, be levied, or assessed upon the Premises or any part thereof or the Building Equipment, or which may be or become a lien prior to the lien of this Mortgage or have priority in payment to the debt secured hereby, or which may accrue or be levied upon Mortgagee's interest therein or upon this Mortgage or the Obligations or the evidence of the Obligations or any other sums secured hereby, without regard to any law heretofore or hereafter enacted imposing payment of the whole or any part thereof upon Mortgagee; upon the passage of any law imposing the payment of the whole or any part thereof upon Mortgagee and prohibiting the payment of same by Mortgagor and the payment to Mortgagee by Mortgagor of all sums necessary for Mortgagee to pay same (which payments Mortgagor covenants to make if not prohibited) or upon the rendering by any court of competent jurisdiction of a decision that the undertaking by Mortgagor to pay such taxes, sewer rents, water charges, assessments and other governmental charges or to pay to Mortgagee the sums necessary to pay same is legally inoperative, then the Obligations and all other sums hereby secured without deduction shall, at the option of Mortgagee, become immediately due and payable, notwithstanding anything to the contrary contained in this Mortgage or any law heretofore or hereafter enacted; and Mortgagor shall not suffer or permit any such taxes, sewer rents, water charges, assessments or other governmental charges on the Premises or any portion thereof or the Building Equipment, or which may be or become a lien on the Premises or any portion thereof or the Building Equipment, to become or remain delinquent or permit the Premises or any portion thereof or the Building

Equipment or any interest therein to be sold for any taxes, sewer rents, water charges, assessments or other governmental charges; and further, at Mortgagee's request, Mortgagor shall furnish to Mortgagee, prior to the date when they would become delinquent, certificates or receipts of the proper officer showing full payment of all such taxes, sewer rents, water charges, assessments and other governmental charges.

If Mortgagor shall first notify Mortgagee in writing of its intention so to do, Mortgagor may, at its expense and in its own name and behalf, in good faith contest any such taxes, assessments and other charges by appropriate legal proceedings and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom so long as such proceedings shall operate to prevent the collection thereof or other realization thereon and the sale or forfeiture of the Premises or any part thereof or the Building Equipment or any part thereof to satisfy the same and provided that during such contest adequate reserves or other appropriate provisions required by generally accepted accounting principles in respect thereof shall have been set aside or made as to which adequate bonds shall have been obtained assuring the discharge of Mortgagor's obligation under this paragraph 2 to pay such taxes, assessments and other charges and any additional charges, penalty or expense arising from or incurred as a result of such contest, and provided further that if at any time payment of any tax, assessment or other charge shall become necessary to prevent the delivery of a tax deed conveying the Premises or any portion thereof or the Building Equipment or any portion thereof because of non-payment of sums, then Mortgagor shall pay the sums in sufficient time to prevent the delivery of such tax deed.

In the event Mortgagor fails to make any payments under this paragraph 2 when due, Mortgagee shall have the right, but not the obligation, to pay such amounts and any such amounts paid by Mortgagee, together with Mortgagee's costs in connection with the payment thereof, shall be immediately due and payable and shall be deemed part of the Obligations secured by this Mortgage.

3. Mortgagor shall pay all debts, claims, or other charges, if and when due and payable, that may become liens against the Premises or any part thereof or the Building Equipment or any part thereof for repairs or improvements that may have been or may hereafter be made on the Premises or any part thereof or the Building Equipment or any part

thereof and shall not permit any lien or encumbrance of any kind to accrue or remain on the Premises or any part thereof or the Building Equipment or any part thereof.

If Mortgagor shall first notify Mortgagee in writing of its intention so to do, Mortgagor may, at its expense and in its own name and behalf, in good faith contest any such debts, claims or other charges by appropriate legal proceedings and, in the event of any such contest, may permit the debts, claims or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom so long as such proceedings shall operate to prevent the collection thereof or other realization thereon and the sale or forfeiture of the Premises or any part thereof or the Building Equipment or any part thereof to satisfy the same and provided that adequate reserves shall have been set aside in accordance with generally accepted accounting principles or as to which adequate bonds shall have been obtained assuring the discharge of Mortgagor's obligation under this paragraph 3 to pay such debts, claims and other charges and any additional charges, penalty or expense arising from or occurring as a result of such contest.

4. Mortgagor shall provide and maintain non-contributory policies of fire insurance and such other insurance upon the Premises (which term, for the purposes of this paragraph 4, shall include the Building Equipment) in such amounts, with such companies, for such periods and on such other terms as the Mortgagee may require. All such policies shall provide for at least 15 days' prior written notice of cancellation to Mortgagee. Mortgagor shall assign and deliver to Mortgagee with satisfactory mortgagee clauses duplicate originals of all insurance policies of any kind or in any amount now or hereafter issued upon the Premises. Mortgagor shall give immediate notice in writing to Mortgagee of any loss or damage to the Premises caused by any casualty. Full power is hereby conferred on Mortgagee to settle and compromise claims, with the participation of Mortgagor if Mortgagor so requests, under all policies required hereunder and to demand, receive and give acquittance for all monies becoming payable thereunder and to assign all policies to any subsequent holder or holders of the Obligations and other sums secured hereby or to the grantee of the Premises in the event of the foreclosure of this Mortgage or other transfer of title to the Premises in extinguishment of the Obligations and other sums secured hereby. In the event of any loss under any of the policies of insurance herein referred to due to substantial damage to

the Premises (for the purposes of this paragraph 4 substantial damage shall be deemed to be damage destroying over 75% of the Premises), the proceeds of such policy shall be paid by the insurer to Mortgagee which at its sole and absolute discretion shall apply the same, wholly or partially, after deducting all costs of collection, including, without limitation, a reasonable attorney's fee, as payment on account of any sums due under the Guarantee, the Obligations and/or any other sums secured hereby as Mortgagee may elect, without affecting the amount or time for payment of the remaining amount of the sums due under the Guarantee, the Obligations and/or any other sums secured hereby, whether or not then due or payable, or toward the alteration, reconstruction, repair, restoration or replacement of the Premises, either to the portion thereof by which said loss was sustained or any other portion thereof, from time to time as work progresses upon receipt by Mortgagee from Mortgagor of satisfactory proof of the actual cost of such restoration, repair or replacement and bills for the work for which reimbursement is sought, or for any other purpose or object satisfactory to Mortgagee. In the event the damage due to loss or casualty is not substantial, no Event of Default under the Credit Agreement has occurred and is continuing and, in Mortgagee's opinion: (i) such damage does not render the Premises unusable and (ii) Mortgagor has sufficient funds available to supplement the insurance proceeds which may be provided to Mortgagor by Mortgagee, as set forth herein, so that there shall be adequate funding available to complete the repair and restoration of the buildings and improvements on the Premises, any money received by Mortgagee because of insurance, shall, at Mortgagor's option, be paid over wholly or in part to Mortgagor, for the restoration or repair of all or any part of the Premises, or the replacement thereof, which may have been altered, damaged or destroyed, from time to time as work progresses on such restoration or repair, upon receipt by Mortgagee from Mortgagor of satisfactory proof of the estimated cost of such restoration or repair and bills for the work for which reimbursement is sought, or may be applied to the payment of sums due under the Guarantee, the Obligations and all other sums secured by this Mortgage; provided, however, (i) that in the event any such insurance proceeds are, in Mortgagee's opinion, insufficient to pay, by themselves, for the restoration and repair of the Premises, Mortgagor shall expend such additional funds as Mortgagee deems necessary for the restoration and repair of the Premises before Mortgagee makes any insurance proceeds available to Mortgagor for such restoration and repair and (ii) in the event not all of the

insurance proceeds are expended for the repair or restoration of the Premises, such funds will be applied toward the reduction of sums due under the Guarantee, the Obligations and/or all other sums secured hereby. Mortgagee shall not be obligated to see to the proper application of insurance money paid over to Mortgagor, and if Mortgagee receives and retains such amounts, the lien of this Mortgage shall be affected only by a reduction of the amount of said lien by the amount of such insurance money received and retained by Mortgagee. Mortgagee shall be entitled, in the event of other insurance and contribution between the insurers, to receive from the insurance moneys to be paid such an amount as would have been payable under the policies held for the benefit of Mortgagee in case there had been no contribution.

5. If a default shall occur under the Credit Agreement, Mortgagee shall have the right, forthwith and without notice, to the appointment of a receiver by a court of competent jurisdiction who shall be entitled to enter into and upon the Premises, to take possession thereof and of the Building Equipment, whether the same shall be then occupied as a homestead or not, and to collect said rent, issues, revenues, proceeds, income and profits, regardless of the adequacy of the security for the payment of the Obligations and other sums secured hereby or the solvency of Mortgagor, Mortgagor hereby covenanting that the appointment of such a receiver by a court of competent jurisdiction, regardless of the adequacy of the security or the solvency of Mortgagor, shall be a matter of right to Mortgagee. All net income, after payment of any collection, management, and attorney's fees, shall be applied toward the payment of any advances made by Mortgagee as permitted in this Mortgage or in the Credit Agreement or in the Collateral Documents (as defined therein) or in reduction of any Obligations and other sums hereby secured, including interest thereon, in the order set forth in paragraph 6, and such application shall not cure or waive any default hereunder or under the Guarantee, unless Mortgagee so consents.

6. All awards and payments heretofore and hereafter made for the taking of or injury to the Premises, or any portion thereof, and the Building Equipment, or any portion thereof, whether such taking or injury be done under the power of eminent domain or otherwise, are hereby assigned, and shall be paid, to Mortgagee to be applied as hereinafter set forth in this paragraph 6, and Mortgagee is hereby authorized to collect and receive the proceeds of

such awards and payments and to give proper receipts and acquittances therefor, and Mortgagor hereby agrees to make, execute and deliver, upon request, any and all assignments and other instruments sufficient for the purpose of confirming this assignment of said awards and payments to Mortgagee free, clear and discharged of any encumbrances of any kind or nature whatsoever.

If the Obligations or any portion thereof be not fully paid when due, whether at maturity, by acceleration or otherwise, then Mortgagee may sell the Premises and/or the Building Equipment at any private sale or public auction, with or without demand, advertising or notices of the time or place of sale, for cash, on credit or for other property, and for such price and on such terms as Mortgagee in its uncontrolled discretion may determine. Mortgagee may be a purchaser of the Premises and/or the Building Equipment and may apply upon the purchase price the Obligations secured hereby owing to it.

Any such award or payment and the proceeds of any sale of the Premises and/or the Building Equipment shall be applied by Mortgagee as follows:

first, to Mortgagee for the payment of all costs and expenses incurred in connection with the collection of such proceeds;

second, to the payment in full of the unpaid principal of, and interest on, the Loans and to the payment of all unreimbursed amounts in respect of the IRS Letters of Credit and the BofA Letters of Credit, together with accrued interest thereon (in each case, such payment shall be applied first to the payment of interest and then to the payment of principal);

third, to a collateral account or accounts to be established by Mortgagee to be held as cash collateral for amounts remaining available to be drawn under the IRS Letters of Credit and the BofA Letters of Credit;

fourth, to the payment in full of the principal of, and interest on, the Continental Loans (as defined in the Credit Agreement), and to the payment of all unreimbursed amounts in respect of drafts drawn under the Financial/Performance Letters of Credit, together with accrued interest thereon;

fifth, to a collateral account or accounts to be established by Mortgagee to be held as cash collateral for amounts remaining available to be drawn under the Financial/Performance Letters of Credit; and